BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

PRINCIPAL BENCH, NEW DELHI

Original Application No. 416 of 2025

IN THE MATTER OF:

Shri Gopal Chandra Vanwassi … Applicant

VERSUS

Indian Oil Corporation Limited (IOCL) & Ors.

… Respondents

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REJOINDER ON BEHALF OF THE APPLICANT TO THE REPLY FILED BY THE RESPONDENT NO.1

1. That the Applicant has filed the present application and as such he is well conversant with the facts and circumstances of the case. The applicant has gone through the content of the reply filed by the Respondent No.1 and have understood the contents thereof. At the outset the applicant denies each and every averment of law and facts made therein, save and expect specifically admitter hereinafter. The denial made in this paragraph may be treated as specific denial.

2. That the applicant craves leave of this Hon'ble Court to read and rely on the contentions raised in the present application which are not repeated herein for the sake of brevity.

PRELIMINARY SUBMISSION

3. The reply filed by IOCL is **based on misrepresentation, suppression of material facts, and selective disclosure**. It

fails to address the core legal and factual issues raised in the Original Application.

4. That the Respondent No.1 i.e. IOCL's entire defence rests on demonstrably false premises regarding:

    a. absence of residential area within 50 metres,
    b. validity of Section 143 order,
    c. compliance with CPCB guidelines,
    d. authenticity of layout plan,
    e. due process followed by District Magistrate,
    f. accuracy of its PESO undertaking, and
    g. non-existence of environmental harm.

5. That the Respondent No.1 has misled PESO, DM, and other authorities by giving false undertakings and submitting a false layout plan, stating that there is open land upto 100 meters on all 4 sides of the proposed site(**Annex 5 @ Pg.50**) deliberately omitted existing residential houses and natural vegetation.

6. That multiple government departments—including UPCB, Mining Department, National Highways Division, Jal Sansthan, UPCL, Police Department, and SDM—have all raised objections. IOCL's reply suppresses these objections.

PARAWISE REPLY

7. That the contents of Para 1 as stated are wrong and denied. IOCL's attempt to portray the OA as vague, misconceived or motivated is untenable. The Applicant has placed on record documentary proof of multiple statutory violations

including (i) breach of CPCB Guidelines dated 07.01.2020, (ii) location of a residential house within 19 metres, (iii) illegal tree removal, (iv) absence of mandatory 143 conversion applicability, and (v) grant of NOCs without proper site verification. The Applicant's submissions in corresponding paras of the OA are reaffirmed and reiterated.

8. The contents of Para 2 are wrong, misleading, and hence denied. The Applicant's submissions in the corresponding paragraphs of the OA are reaffirmed and reiterated. IOCL's blanket statement that the RO has been established "strictly in accordance with law" is wholly incorrect for the following reasons:

The very foundation of all permissions/NOCs is vitiated because authorities proceeded on the incorrect assumption that no residential area exists around the site. However, the Village Panchayat Development Officer, Upwara, vide letter dated 14.11.2025, has categorically clarified that the RTI information relied upon by Respondent No.2 and IOCL was supplied by mistake, meaning thereby, residential area does exist in Village Panchayat Upwara. (**Annexure A/32**)

This destroys the basis of all siting clearances and renders the NOCs non-application of mind. Once the presence of residential houses is admitted, the CPCB Guidelines dated 07.01.2020 and O.M. dated 16.09.2024 become mandatorily applicable. The project proponent and

IOCL have not complied with the mandatory 30-metre distance restriction, as houses exist at 19 metres, which IOCL has not disputed.

IOCL's reliance on NOCs mechanically issued by multiple departments cannot cure the fundamental illegality. These NOCs were granted: without correct factual basis, without considering residential proximity, and without examining compliance with CPCB siting norms.

The Change of Land Use (CLU) order also does not cure the breach of environmental siting norms. CLU under the U.P. ZA Act does not override statutory environmental guidelines or NGT/Supreme Court directions. The issuance of PESO license also cannot validate a site that violates CPCB-mandated safety buffers. PESO itself requires compliance with CPCB norms.

Verification by Forest, Mining, Revenue or other authorities did not examine siting criteria, distance restrictions, or environmental feasibility — and therefore cannot be treated as compliance. Accordingly, the statement that the RO has been established "strictly in accordance with law" is factually incorrect and legally unsustainable.

9. The contents of para 3 are false, misleading, and unequivocally denied. The Applicant's submissions in the corresponding paras of the OA are reaffirmed and reiterated. IOCL's assertion that the retail outlet has been

"commissioned" and is proceeding to start sales is wholly improper, contemptuous in effect, and a deliberate attempt to frustrate the adjudicatory process of this Hon'ble Tribunal. The present OA has been pending before the NGT since 11.09.2025, and IOCL, having full knowledge of the pendency, was duty-bound to maintain status quo and refrain from creating irreversible facts on the ground.

Instead, Respondent No.1 and R-2 have:

a. Accelerated construction and commissioning activities during the pendency of judicial proceedings, which amounts to overreaching the process of this Hon'ble Tribunal.

b. Proceeded despite clear issues raised regarding:

c. non-compliance with CPCB Guidelines,

d. violation of mandatory siting criteria,

e. incorrect RTI-based assumption of "no residential area", now corrected by VDPO (14.11.2025), and

f. multiple factual disputes requiring adjudication.

Attempted to create a fait accompli by filling tanks, erecting boundary walls, and preparing for sales to defeat the outcome of the present proceedings.

The claim that "no violation has been found by any authority" is equally untenable because:

a. All NOCs were issued on the wrong factual premise (i.e., no residential area), now expressly corrected by village authorities.

b. None of the authorities examined distance compliance, CPCB siting criteria, or residential proximity, making their NOCs non-speaking and legally unsustainable.

c. Environmental violations are precisely the subject of scrutiny before this Tribunal, and IOCL cannot certify its own compliance.

Accordingly, the commissioning of the retail outlet during the pendency of the OA is illegal, premature, and contrary to settled principles of environmental adjudication, and does not cure the fundamental violations established on record

REJOINDER TO PARA WISE REPLY

10. That the contents of Para 1.1 as stated are wrong hence denied. The Applicant's submissions in the corresponding paragraphs of the OA are reaffirmed and reiterated. Since Respondent No.1 has merely repeated the same assertions already taken by Respondent No.2, the Applicant adopts, for the sake of brevity, the detailed rebuttals already made in the rejoinder to Respondent No.2, specifically in:

a. **Para 13** – denial of allegations regarding legality and environmental compliance;

b. **Paras 14–20** – violations concerning tree cutting, forest impact, siting norms, and residential proximity;

c. **Paras 18–23** – non-compliance with CPCB Guidelines and incorrect reliance on "non-residential area" classification;

d. **Para 31 onwards** – incorrect compliance claims, distance violations, and invalid NOCs.

These detailed submissions fully answer and negate the repeated assertions of Respondent No.1. No new or independent facts have been stated in para 1.1 warranting a separate response.

11. The contents of Para 1.2 as stated are wrong hence denied. The Applicant's submissions in the corresponding paragraphs of the OA are reaffirmed and reiterated. Respondent No.1 merely repeats assertions already advanced by Respondent No.2 regarding tree cutting, excavation, land classification, and alleged compliance.

For the sake of brevity, the Applicant adopts the detailed rebuttals already provided in:

a. **Paras 14–15** – illegal tree removal, damage to oak-root systems, and suppression of Forest Range Officer's findings;

b. **Para 20** – excavation, alteration of natural contours, environmental disturbance, and siting violations;

c. **Paras 26–27** – incorrect reliance on selective forest reports and non-disclosure of full facts;

d. **Para 36** – falsity of the claim that the land is "non-forest" and that no forest permission was required.

As regards Respondent No.1's reliance on Change of Land Use (CLU) to claim statutory compliance, the same is misconceived. CLU under the U.P. ZA & LR Act is only a revenue classification and does not override mandatory environmental requirements, including CPCB's siting norms, buffer distances, restrictions around residential areas, or the need for proper environmental appraisal. This position has already been addressed in detail in the rejoinder to Respondent No.2 in:

a. **Para 15** – demonstrating that CLU does not validate environmental non-compliance;

b. **Para 31** – explaining that siting criteria apply irrespective of revenue categorization.

Thus, Respondent No.1's reliance on CLU does not cure the illegalities or environmental violations that are already established on record.

12. The contents of Para 1.3 as stated are wrong hence denied. The Applicant's submissions in the corresponding paragraphs of the OA are reaffirmed and reiterated.

Respondent No.1's sweeping assertion that "no statutory guideline has been violated" is incorrect. As demonstrated in detail in the rejoinder to Respondent No.2

(particularly paras 18–23, 26–31), the project violates the mandatory siting norms under CPCB Guidelines dated 07.01.2020 and O.M. dated 16.09.2024, including:

a. presence of residential houses within 19 metres,

b. applicability of 30-metre minimum distance, and

c. incorrect factual basis of NOCs, all of which stood vitiated by the VDPO's clarification dated 14.11.2025 admitting that the RTI reply relied upon by Respondents was issued by mistake.

Thus, the very foundation of the permissions relied upon by IOCL is incorrect, incomplete, and contrary to environmental norms. Respondent No.1's assertion that the public trust doctrine "does not arise" is untenable. Any activity involving:

a. environmental risk,

b. extraction/removal of trees,

c. alteration of natural land contours, and

d. siting of a hazardous installation in proximity to habitations.

Necessarily invokes the public trust obligation of the State and instrumentalities (including IOCL) to protect environmental and public health interests. Compliance with CPCB norms is not optional and cannot be overridden by commercial or administrative approvals.

The invocation of employment opportunities and local demand does not cure statutory violations. Public convenience cannot justify non-compliance with environmental safety norms, as repeatedly held by the Hon'ble Supreme Court and this Tribunal.

The letter from certain local representatives neither:

a. designates the area as "non-residential", nor

b. dispenses with mandatory CPCB siting requirements, nor

c. authorises IOCL or Respondent No.2 to ignore environmental risks.

Most importantly, the letter predates:

a. VDPO's clarification,

b. identification of residential houses within prohibited distance, and

c. the full disclosure of tree damage and excavation impacts.

Accordingly, Respondent No.1's attempt to rely on such communication is misconceived. In sum, Respondent No.1's contentions in para 1.3 stand fully answered and disproved by the detailed rejoinders already submitted.

13. That the contents of Para 1.4 as stated are wrong hence denied. The applicant's detailed rebuttals regarding illegal tree removal, damage to oak-root systems, forest-type characteristics, and excavation have already been provided

in **Paras 14–15, 20, 26–27** and **36** of the Rejoinder to R-2, which are fully adopted here. Respondent No.1's bare denial is untenable in view of the Forest Range Officer's own report, photographic evidence, and statutory guidelines already placed on record

14. That the contents of Para 1.6 & Para 1.7 do not call for any comments.

15. That the contents of Para 1.5 & Para 1.8 to Para 1.10 are denied. The entire defence of "no residential area as per local laws" collapses in view of the Village Panchayat Development Officer's clarification dated 14.11.2025, expressly stating that the RTI reply relied upon by the Respondents was issued by mistake and that residential area does exist in Village Panchayat Upwara.

    Consequently, the mandatory 30-metre siting criteria under CPCB Guidelines squarely apply and stand violated, as houses exist at 19 meters, rendering all NOCs granted on the basis of the erroneous RTI legally unsustainable. Bare assertions of compliance cannot override statutory distance requirements or cure foundational illegality in the siting and approval process.

16. The contents of Para 1.11 are denied. The DM's NOC itself stands vitiated, as it was issued on the wrong factual premise—now expressly corrected by the Village Panchayat Development Officer (14.11.2025)—that there is no designated residential area, whereas residential houses do exist within 19 metres of the RO.

Therefore, the mandatory 30-metre CPCB siting norm stands violated, and the DM's NOC—based on an admittedly erroneous RTI reply—reflects non-application of mind, rendering the Respondent's claim of full compliance legally untenable.

17. The contents of Para 1.12 to Para 1.15 as stated are wrong hence denied. Respondent No.1's repeated reliance on the RTI information from Block Development Office is factually unsustainable, as the Village Panchayat Development Officer, Upwara, vide letter dated 14.11.2025, has expressly clarified that the earlier RTI reply—stating "no designated residential area exists"—was issued by mistake. Once this factual premise collapses, the Respondent's entire claim of CPCB compliance automatically fails.

With the existence of residential houses now officially acknowledged, the mandatory 30-metre distance requirement under CPCB Guidelines (07.01.2020 & 16.09.2024) squarely applies. The site features residential houses at 19 metres, which is an undisputed factual violation and cannot be cured by CLU, byelaws interpretation, or the mechanical issuance of NOCs by different authorities. The Respondent's assertion that Building Byelaws do not require 50 metres is irrelevant—the violation is of CPCB norms, which override local interpretations.

The repeated claim that all authorities "examined and approved" the proposal is untenable when such approvals were based on incorrect and incomplete factual information. NOCs issued on the basis of a mistaken RTI reply cannot validate a site that breaches mandatory environmental and safety siting criteria. Consequently, Respondent No.1's assertion of full statutory compliance is misconceived and contrary to the material on record.

18. That the contents of Para 1.16 as stated do not call for any comments being formal in nature.

19. The contents of Para 1.17 as stated are wrong hence denied. The Respondent's assertion that the MoRTH acquisition process "does not affect the legality of the NOCs" is baseless, as all NOCs were issued without examining the notified NH-309A widening, and without considering that Village Uprara is expressly included at Serial No. 18 of the acquisition notification.

The Respondent has produced no material showing that the alignment plans were ever correlated with the RO layout, and the hurried construction during pendency of this OA reflects non-application of mind and failure to assess future highway safety buffers.

Accordingly, the claim that the project does not conflict with the proposed widening is unsupported, unverified, and contrary to the statutory notification itself.

20. The contents of Para 1.18 as stated are wrong hence denied. The Respondent's claim that "no trees existed" is

directly contradicted by the Forest Range Officer's Report dated 26.02.2024, which records damage to roots and removal of Bhimal/Malta/Lemon vegetation during levelling, and nowhere supports the Tehsildar's bare assertion relied upon by Respondent No.1.

Further, multiple complaints from villagers and the subsequent forest inspections demonstrate that tree/vegetation disturbance did occur, and the Respondents' selective reliance on revenue records cannot override official forest findings that acknowledge environmental impact.

Accordingly, the denial of any ecological damage is misleading and contrary to the contemporaneous forest record, rendering Respondent No.1's assertions unsustainable.

21. That the contents of Para 1.19 to Para 1.25 as stated are wrong hence denied. Respondent No.1's entire defence once again rests on the erroneous RTI replies stating that "no designated residential area exists". This foundation is demolished by the Village Panchayat Development Officer, Upwara (letter dated 14.11.2025) which expressly clarifies that the earlier RTI information was issued by mistake and that residential area DOES exist in Village Panchayat Upwara. Once this factual basis collapses, every NOC, verification, and statutory approval issued on that mistaken assumption stands vitiated.

With the existence of residential houses now officially acknowledged, the mandatory 30-metre siting requirement under CPCB Guidelines dated 07.01.2020 & 16.09.2024 becomes applicable. The Respondents do not dispute that residential houses exist at 19 metres, which is below the statutory minimum. Therefore, the project violates the siting norms, and the Respondent's statements of "full compliance" are factually incorrect and legally untenable.

The Respondent's reliance on Tehsildar's Report (25.06.2024) is misplaced. That report admits the presence of two residential houses within the vicinity; it does NOT declare the site as non-residential nor exempt the project from CPCB norms. Further, when viewed in light of the VDPO's correction, the Respondent's claim that "no designated residential zone exists" has no factual basis and reflects non-application of mind by all approving authorities.

Respondent No.1's assertion that the project complies with CPCB guidelines because "additional safety measures" may be taken is incorrect. Additional PESO measures apply only where the 30–50 metre buffer is impossible due to site constraints, NOT where the minimum 30-metre requirement is violated. The Respondent does not and cannot explain how the RO satisfies the 30-metre norm when structures lie at 19 metres.

The claim that "letters of villagers merely reflect forwarding of complaints" is inaccurate. These complaints triggered forest inspections and official inquiries, which recorded removal of vegetation, damage to roots, and alteration of natural contours, contradicting Respondent No.1's blanket denial of environmental impact.

The DM's NOC and PESO licence cannot legitimise approvals issued on a false factual assumption. Statutory licences are neither substitutes for environmental compliance nor cures for violations of binding CPCB norms. Once the premise of "no residential area" is corrected, the entire approval process collapses for non-application of mind, incorrect factual foundation, and violation of mandatory environmental safeguards.

22. That the contents of Para 1.26 to Para 1.29 as stated are wrong hence denied. Respondent No.1's assertion of "full compliance" is untenable because the very factual basis of all approvals — that no residential area exists — has been formally corrected by the VDPO Upwara (14.11.2025), thereby establishing a clear violation of the mandatory 30-metre CPCB siting norm, with houses located at 19 metres.

The filing and forwarding of complaints is not the issue; the issue is that the Respondents' approvals were issued on incorrect, incomplete, and now-admitted erroneous information, which renders all NOCs and alleged PESO/CPCB compliance legally unsustainable.

No competent authority has ever examined compliance against the correct factual matrix, and therefore Respondent No.1's blanket denials cannot cure the substantive statutory violations already evident on record.

23. The contents of Para 1.30 to Para 1.34 as stated are wrong hence denied. The Respondent's reliance on the RTI Appellate Authority is misplaced, as the central issue is that all NOCs—including the DM's—were granted on the admittedly erroneous assumption (now corrected by VDPO Upwara on 14.11.2025) that no residential area existed, whereas houses lie within 19 metres, in breach of the mandatory 30-metre CPCB siting norm.

The Respondent's admission of "inadvertent omission" of nearby houses in the layout is itself proof of material suppression, vitiating the approval process; site inspections based on incomplete/incorrect layouts cannot validate an illegal siting.

The Revenue Sub-Inspector's later report and BDO's communication highlight inconsistencies in the Respondent's disclosures, reinforcing that approvals were granted without correct factual material and therefore do not constitute lawful compliance.

Thus, Respondent No.1's claim that the NOC "remains valid" is untenable, as approvals founded on demonstrably wrong facts and suppressed structures cannot cure a substantive statutory violation.

24. That the contents of Para 1.35 to Para 1.40 as stated are wrong hence denied. The foundation of all approvals collapses because the Respondent's claim—based on RTI replies—that "no residential area exists" has been withdrawn by VDPO Upwara on 14.11.2025, proving that crucial facts were misrepresented during the NOC process.

It is specifically reiterated that Section 143 of the U.P. Zamindari Abolition & LR Act has no applicability in Uttarakhand, and therefore any reference to "CLU under Section 143" in the Respondent's reply is legally erroneous and cannot validate the approvals granted.

The existence of two residential houses within 19 metres triggers an absolute violation of the mandatory 30-metre CPCB minimum distance, which admits of no relaxation by any authority.

The non-disclosure of these houses in the layout is a material misrepresentation, vitiating the DM's NOC, PESO licence and all consequential approvals.

Subsequent inspections cannot retrospectively cure an NOC issued on wrong disclosures—the violation existed on the date of consideration, rendering the approvals unsustainable.

25. That the contents of Para 1.41 to Para 1.47 as stated **are vehemently denied as false, misleading and contrary to the official record, except those that are mere matters of record.** The allegation that District Authorities or IOCL have acted strictly in compliance with all legal obligations

is wholly misconceived and is specifically denied. The answering Respondent has deliberately suppressed material facts and has mischaracterised the contents of its own annexures.

(A) FALSE ASSERTION OF "ALL NECESSARY APPROVALS"

It is denied that "all necessary approvals" including those from UKPCB have been obtained. No Consent to Establish ("CTE") or pollution clearance has ever been issued by UKPCB, and the answering Respondent has failed to place on record any UKPCB NOC number, date or conditions. In fact, the UKPCB inspection categorically recorded the existence of residential houses within the 50-metre zone and sought clarification in view of CPCB guidelines. Thus, the statement that "no official inspection has indicated any violation" is demonstrably false.

(B) MISLEADING CLAIM REGARDING RESIDENTIAL STRUCTURES

The contention that "only a single house exists near the site" and that the area is "not a designated residential zone" is factually incorrect and contrary to multiple government records. Village Parivar Registers, PMAY-G beneficiary lists, Swamitva records, electricity and water connections, Gram Panchayat house-tax records and electoral rolls all confirm the long-established presence of multiple residential houses within 19–35 metres of the proposed retail outlet. Even the District Magistrate's own NOC

(Annexure R-5) records such houses in proximity. The attempt to evade CPCB distance norms by relying on an absence of "formal designation" is untenable, especially in view of **MoEF&CC Office Memorandum dated 16.09.2024**, which mandates classification of un-notified rural habitations and requires that existing residential use be treated as such.

(C) NON-COMPLIANCE WITH CPCB SITING CRITERIA

It is emphatically denied that siting criteria have been complied with. The nearest residential houses are situated well within 30 metres of the subject site, and therefore, the outlet is in **direct violation of the mandatory 30–50 metre restriction** prescribed under CPCB guidelines. The NOC itself records nearby houses, and therefore, the Respondent's claim that "no violation exists" is unsustainable. The mere ritual of physical inspection does not cure a violation that is structural and objective in nature.

(D) WRONG AND MISLEADING INTERPRETATION OF FOREST REPORTS

The Respondent has selectively quoted from the Forest Department's reports and concealed the operative findings. The Divisional Forest Officer's Report dated 26.02.2024 (Annexure R-6) specifically records **levelling of land, removal of bushes/vegetation and root disturbance**, contradicting the Respondent's assertion that "no oak trees

existed and the land was free from trees." The existence of broadleaf and oak vegetation is further confirmed through earlier correspondence and photographic evidence on record. The Prabhagiya Vanadhikari's letter dated 15.03.2024 merely states that the site is 12 km from a reserved forest; it does **not** state that the site does not possess forest characteristics. Under the *T.N. Godavarman* doctrine, ecological characteristics, not revenue classification, determine whether land attracts forest protection. The Respondents' reliance on revenue labels to negate environmental obligations is therefore misplaced.

(E) INVALID AND INCOMPLETE NOC PROCESS

The assertion that "no independent demarcation was required" and that NOC was issued after "thorough verification" is contrary to Annexure R-5 itself. The District Magistrate's NOC expressly records that several mandatory departments— including the SDM, Jal Sansthan, UPCL, and Police—did **not** verify the site map or provide recommendation, and that the NOC is **conditional and self-revoking** in the event of violation of CPCB norms. The omission of the nearest residential structure from the draft layout is not an "inadvertent omission" but a material concealment that directly affects safety distances and regulatory compliance. The Respondent cannot claim full compliance while simultaneously admitting such omission.

(F) UNFOUNDED ASSERTION OF JUDICIAL COMPLIANCE

The bald statement that the project does not violate any judicial pronouncement is denied. The Hon'ble Supreme Court and this Hon'ble Tribunal have repeatedly held that environmental norms, statutory safety distances and CPCB guidelines must be strictly complied with and that revenue permissions cannot override environmental mandates. The Respondent's stand is contrary to settled law.

(G) RESPONDENT NOT COMPETENT TO COMMENT ON LEGALITY OF NEARBY STRUCTURES

It is self-defeating for the Respondent to state that it is "not competent to comment on legality of surrounding structures" while simultaneously claiming that no designated residential area exists. If the Respondent is not competent to determine legality, it is equally incompetent to interpret habitation status so as to dilute CPCB norms.

26. The contents of paragraphs 1.48 to 1.52 are **specifically and emphatically denied as false, misleading and contrary to the record**, except to the extent they are mere matters of record. The answering Respondent is seeking to give a clean chit to itself by repeatedly asserting "full compliance" without dealing with the specific documentary material and official reports already placed before this Hon'ble Tribunal.

(A) Misreading of siting norms and statutory compliance

It is **denied** that Respondent No.1 has complied with all statutory requirements or that the alleged violations are based on "incorrect assumptions" or "misreading" of siting norms. On the contrary:

Multiple **residential houses exist within approximately 19–35 metres** of the subject site and are recorded in official village records (Parivar Register, PMAY-G beneficiary lists, Swamitva/property records, Gram Panchayat house-tax, electoral rolls, electricity and water connections).

Even the **District Magistrate's NOC** records buildings in close proximity to the site and notes safety concerns regarding the national highway bend.

The Respondent's repeated attempt to escape CPCB guidelines by invoking the absence of a formally "designated residential area" is contrary to the **CPCB Guidelines read with subsequent Office Memoranda**, which specifically address unclassified / rural / hilly habitations and require that existing residential use be treated as such for siting purposes. The plea of blanket "compliance" is therefore misconceived.

(B) Google Earth imagery is corroborative, not solitary

It is denied that the Applicant's case rests on Google Earth imagery or that such imagery is "unauthoritative." Google Earth images are relied upon **only as corroborative material**, to visually demonstrate the state of the site (dense vegetation, trees, natural contours) at various times. They are **not the sole basis** of the allegations.

The Applicant's case is independently supported by:

a. Forest Range Officer's inspection report dated 26.02.2024;
b. Divisional Forest Officer and Prabhagiya Vanadhikari correspondence;
c. Mining and National Highways Department notices;
d. Photographs and village records.

The Respondent is attempting to trivialise the evidence by attacking one piece (Google imagery), while ignoring the bulk of official material which confirms disturbance of natural terrain and vegetation.

(C) NOC not preceded by lawful and complete verification

It is **denied** that the NOC was issued after proper evaluation of safety and environmental impacts or that "all" concerned departments thoroughly verified the site. The District Magistrate's own NOC order records that several departments – including SDM, Jal Sansthan, UPCL, Police and others – **did not verify or sign the layout map** and that the NOC is **conditional**, liable to be treated as automatically cancelled upon violation of CPCB guidelines and conditions.

Further:

UKPCB has not issued any formal CTE / NOC; Respondent No.1 has not produced any such order on record.

The layout initially submitted by the Respondent **omitted the nearest residential structure** and showed an incomplete picture of the surroundings. Labeling this as an

"inadvertent omission" does not cure the **material misrepresentation**, because distance from habitation is the core parameter under CPCB norms.

Notices / communications from the Mining Department and NH Division themselves show that construction/site development proceeded in a manner that disturbed natural contours and raised safety concerns.

In these circumstances, the bald assertion that "no material misrepresentation or suppression" occurred and that the NOC is "legally sound" is untenable.

(D) Environmental and ecological impact – factual misstatements

It is **denied** that there is "no evidence of ecological or environmental harm" or that no trees / forest cover existed on the site. The answering Respondent has once again misrepresented its own annexures:

The **Forest Officer's report dated 26.02.2024** expressly records levelling of the land, removal of bushes/vegetation and damage to root systems at the site. It does not certify that the land was "free from all trees" or that no vegetation was affected.

Earlier Forest Department correspondence and photographic material show **broadleaf / oak-type vegetation and dense natural cover** prior to excavation.

The mere fact that the land was not notified as "Reserved Forest" or that a CLU order was obtained **does not mean that the area had no forest or ecological character**. Under settled law, including the *T.N. Godavarman* line of judgments, ecological characteristics

and actual vegetation on the ground are crucial, not just revenue entries or distance from the nearest reserved forest.

The statement that "all site development activities were carried out strictly in accordance with environmental and forest laws" is thus contrary to the Forest Officer's own findings and to the visual and documentary evidence on record.

(E) Complaints and inspections did not "cure" violations

It is incorrect and denied that "all complaints" were fully addressed and that inspections resulted in a clean bill of health.

Complaints by the Applicant and other villagers triggered **multiple official inspections and correspondence**, including Forest, UKPCB, Mining and NH authorities, many of which explicitly flagged issues relating to vegetation removal, muck dumping, safety, and presence of nearby houses.

None of these concerns has been substantively rebutted; instead, the Respondent merely labels them "considered" and asserts compliance without placing any detailed speaking orders from these departments.

The Respondent's position reduces the entire process to a formality, contrary to the precautionary principle and the statutory mandate of **strict enforcement** of CPCB norms.

27. That the contents of Para 2, Para 3 and Para 3.1 are emphatically denied as false, misleading, and contrary to

the material on record. The present dispute squarely involves violations of the Environment (Protection) Act, 1986, binding CPCB guidelines issued under Section 3 of the EP Act, the principles laid down by the Hon'ble Supreme Court in T.N. Godavarman, M.C. Mehta, and other environmental rulings, as well as directions repeatedly issued by this Hon'ble Tribunal regarding adherence to mandatory siting norms for hazardous petrol retail outlets. The Respondent's attempt to portray the matter as a mere "misunderstanding" is wholly misconceived.

It is specifically submitted that the violations arise not from any "incorrect assumptions" by the Applicant, but from **objective, measurable and officially recorded facts**, including:

Multiple **residential houses within 19–35 metres** of the proposed retail outlet, recorded in official village records, Parivar Register, PMAY-G list, Swamitva/property records, electricity and water connection registers, and also acknowledged in the **District Magistrate's own NOC**.

The **Forest Range Officer's Report dated 26.02.2024**, which records levelling, vegetation removal and root disturbance—contradicting the claim that the site had no natural vegetation or ecological features.

UKPCB inspections acknowledging residential occupation within the restricted zone and raising queries

under the CPCB guidelines, without granting any Consent to Establish/NOC.

The **conditional nature of the DM's NOC**, which expressly states that violation of CPCB guidelines results in the NOC being deemed automatically cancelled.

The Respondent's assertion that the land was "never forest land" is a selective reading of the record. The Applicant has never claimed that the land is a notified Reserved Forest; rather, the Applicant has shown through photographs, Google imagery and official forest correspondence that the land possessed **natural vegetation, including broadleaf species**, attracting the ecological protection principles laid down by the Hon'ble Supreme Court. The Respondent's characterisation of the land as entirely barren is therefore misleading and contrary to its own annexures.

The further statement that all permissions/NOCs were granted "after proper scrutiny" is also denied. As already demonstrated, **several mandatory departments did not verify or sign the layout**, including SDM, Jal Sansthan, UPCL and Police; the layout itself omitted the nearest residential house; UKPCB has not granted any statutory clearance; and the DM's NOC is explicitly conditional. None of these defects has been cured.

In these circumstances, it is **incorrect and untenable** for Respondent No.1 to claim that no preventive, restorative, or compensatory directions are attracted. On the contrary, the nature of violations, the proximity of habitations, the disturbance of natural terrain

and vegetation, and the non-compliance with mandatory CPCB siting criteria fully justify the invocation of the jurisdiction of this Hon'ble Tribunal under Sections 14, 15 and 20 of the NGT Act.

It is denied that no cause of action, initial or continuing, arises against Respondent No.1 Corporation. The present proceedings arise from **clear, documented and ongoing violations** of mandatory CPCB siting norms, conditional NOC requirements, and environmental safeguards, as well as from the **continuing adverse impact** of the Respondent's activities on the surrounding residential habitation and ecological features.

The Applicant's allegations are neither speculative nor incorrect; they are based on **official records, departmental inspections, Forest Range Officer reports, UKPCB observations, Mining and NH Division communications, village records, photographs and site measurements**, all of which establish a **continuing infraction** that squarely invokes the jurisdiction of this Hon'ble Tribunal under Sections 14, 15 and 20 of the NGT Act.

28. That the **contents of Para 4.1 and Para 4.2 are denied in toto as false, misleading, self-serving and contrary to the documentary record.** The Respondent No.1 Corporation's repeated assertion that the proposed retail outlet complies with CPCB siting criteria is not only incorrect but is contradicted by **official inspections, village habitation records, forest reports, photographs,**

UKPCB observations, and even the District Magistrate's own NOC.

It is denied that there is no violation of CPCB Guidelines dated 07.01.2020 or OM dated 16.09.2024. The Respondent has selectively relied upon the phrase "residential area designated as per local laws," while ignoring:

The subsequent Office Memorandum dated 16.09.2024, which expressly clarifies that **Unclassified / rural / hilly habitations must be treated as residential areas for enforcement of siting norms**, and State PCBs must initiate classification where such designation is absent.

The fact that multiple **long-standing residential houses exist within 19–35 metres** of the RO site, which is:

Recorded in the Parivar Register, PMAY-G beneficiary lists, Swamitva/property records, Gram Panchayat house-tax records, electoral roll house numbers, and acknowledged in the **District Magistrate's own NOC**, which notes buildings in close proximity.

The **statutory requirement that in NO case shall the distance be less than 30 metres**, irrespective of "designation," which the Respondent conveniently ignores.

Thus, even under the Respondent's own quoted text, the existence of residential houses within 30–50 metres is sufficient to attract the siting norms, which the Respondent has admittedly violated.

The Respondent relies upon RTI replies from Tehsil and BDO stating that there is "no designated residential area as per local laws." This reliance is misplaced for several reasons:

a. The RTI replies only state that no formal residential zone has been *declared*;
b. They do NOT deny the existence of residential houses;
c. They do NOT state that such houses are non-residential.

Under the 2024 OM, in rural and hilly areas, **existing habitation itself constitutes residential area**. Formal zoning is not a precondition for the applicability of environmental siting norms.

The Respondent cannot reduce CPCB norms to a meaningless formality by arguing that unless a rural village issues a zoning notification, siting criteria do not apply.

The Respondent's own NOC layout originally **omitted the nearest residential house**, which itself proves that their siting assessment was incomplete and misleading.

29. Therefore, the Respondent's reliance on RTI replies is **misconceived, incomplete, and legally irrelevant** to the applicability of CPCB guidelines.

A. **Multiple Government Records Contradict Respondent's Claim of "No Residential Area"**

The following official records establish residential use:

a. Parivar Register entries for multiple households;

b. PMAY-G sanctioned houses (inherently residential);
c. Swamitva property cards;
d. Electricity and water connections;
e. Gram Panchayat house-tax records;
f. Electoral rolls showing house numbers;
g. Village maps and photographs of long-standing structures.

These are **far more authoritative** than a one-line RTI reply denying "designation" under a statute that does not even provide for formal residential zoning in hilly gram panchayat areas.

Under the precautionary principle and statutory interpretation of environmental norms, **"residential area" includes any actual human habitation**, not merely formally notified colonies—which rarely exist in rural Uttarakhand.

30. **That the contents of Para 4.3 to Para 4.5 are denied in their entirety as false, misleading, and contrary to the material on record.** The Respondent No.1 Corporation is attempting to trivialise a material concealment by labelling it as an "inadvertent omission," whereas the omission of the nearest residential house from the site layout constitutes a **serious misrepresentation** going to the root of statutory siting compliance.

It is denied that the non-mention of the nearest residential structure in the submitted layout was a mere "preliminary schematic" without consequence. The entire purpose of the siting layout during NOC processing is to

enable authorities to assess **radial distances from residences, schools, hospitals and other sensitive receptors** under CPCB guidelines.

Omitting the closest house from the map **directly affects the calculation of the mandatory 30–50 metre distance**, and therefore cannot be brushed aside as inconsequential.

It is denied that the District Magistrate's NOC, merely because it "mentions houses," amounts to a finding of compliance. On the contrary:

a. The NOC is expressly **conditional**, stating that violation of CPCB guidelines renders the NOC automatically void.
b. Several departments did **not verify** the map; the SDM did **not provide recommendation**; and discrepancies in the layout were **not resolved** prior to issuance.
c. The NOC **does not certify that the mandatory minimum distances are satisfied**, nor does it validate the omission of structures from the layout.

Therefore, the NOC's mention of houses does not cure the Respondent's non-compliance; rather, it confirms the existence of nearby residences that bring the CPCB siting norms squarely into operation.

It is denied that physical inspection by revenue or supply officials established compliance with CPCB norms. None of the authorities under Rule 144 are empowered to

override statutory environmental siting criteria, nor can a site inspection validate a location where **objective distance measurements** show houses within **19–35 metres**.

The Respondent has produced no demarcation map or certified measurement to demonstrate compliance. Nor has Respondent No.1 produced any:

a. UKPCB Consent to Establish,

b. CPCB clearance, or

c. Independent site-distance verification from any competent authority.

Accordingly, the bare assertion of "due scrutiny" is unsubstantiated.

The statement that final engineering drawings are approved only during PESO licensing is irrelevant. **Siting compliance must be verified at the NOC stage**, not postponed to PESO licensing. A layout that omits the nearest residential house vitiates the NOC process itself. PESO approval cannot retrospectively cure a fundamental siting violation.

The Respondent's claim that the allegation of non-compliance is "speculative" is denied. Violations are established from:

a. District Magistrate's own NOC showing buildings near the site;
b. Parivar Register, PMAY, Swamitva and property records confirming multiple residences within the prohibited zone;

c. UKPCB's inspection noting residential houses within 50 meters;
d. Forest Officer's report dated 26.02.2024 recording levelling and removal of vegetation;
e. Mining and NH Division notices;
f. Photographs and site measurements.

In view of these multiple independent records, the attempt to dismiss the Applicant's case as speculative is untenable.

31. **That the contents of paragraphs 4.6 to 4.10 are denied in their entirety as false, evasive and contrary to the official record**, except to the extent that they merely narrate the Respondent's self-serving assertions. The Respondent No.1 Corporation has again sought to assert blanket compliance without addressing the specific statutory and factual violations raised by the Applicant.

It is denied that the building bye-laws have not been violated or that construction commenced strictly after lawful permissions. The Respondent has failed to place on record:

- Any **sanctioned building plan** approved by the competent local authority for the retail outlet,
- Any **completion certificate** or structural safety clearance, and
- Any document demonstrating compliance with **local hill-area construction norms** applicable to slope stability, drainage, and safety.

The mere assertion that "permissions were taken" does not establish legality, particularly when **Mining Department notices and NH Division communications** show disturbance of natural contours and safety concerns during site development.

It is denied that the land was devoid of vegetation or forest characteristics. The Respondent has selectively quoted the Prabhagiya Vanadhikari's report dated 15.03.2024, which merely states that the site is approximately **12 km away from a notified Reserved Forest**. This report **does not certify** that the land lacked ecological or forest characteristics.

It is denied that no clearance under Section 2 of the Forest (Conservation) Act, 1980 is required as a matter of fact or law. Once official inspection records themselves acknowledge disturbance of vegetation and natural land cover, the question of applicability of forest and environmental laws **cannot be brushed aside** without a proper scientific and statutory evaluation. The Respondent cannot self-certify exemption from environmental obligations.

The Applicant's reliance on photographs and Google Earth imagery is not misconceived. Such material has repeatedly been accepted by courts and this Hon'ble Tribunal as **corroborative evidence**, particularly when it aligns with official inspection reports. The imagery is relied upon to demonstrate the **pre-existing natural state of the land**, slope conditions, and subsequent disturbance, and not as a substitute for statutory findings.

It is denied that the precautionary principle has been complied with merely by obtaining routine permissions. The precautionary principle requires:

- Identification of potential environmental and safety risks,
- Scientific assessment of impacts on slope stability, drainage, hydrology, and habitation safety, and
- Preventive measures before irreversible damage occurs.
- No such scientific assessment or environmental impact evaluation has been placed on record. The Respondent's bald assertion of compliance does not satisfy the mandate of environmental law.

It is denied that the site development poses no risk to public safety or environmental sustainability. The location of the retail outlet:

- In close proximity to residential houses,
- On hilly terrain near a national highway bend, and
- After alteration of natural contours and vegetation,
- raises serious safety and environmental concerns that cannot be dismissed as "speculative." These concerns are supported by official notices and inspection reports and warrant scrutiny by this Hon'ble Tribunal.

32. **That the contents of paragraphs 4.11 to 4.21 are denied in their entirety as false, misleading, and contrary to the record**, save and except what is a matter of record. The Respondent No.1 Corporation has attempted to justify

serious statutory and environmental non-compliances by invoking public benefit and administrative approvals, neither of which can legalise violations of mandatory environmental and safety norms.

It is denied that the absence of a statutory requirement of public notice or public consultation absolves the Respondents from compliance with **mandatory CPCB siting criteria, precautionary principles, and public trust obligations**. While a formal public hearing may not be prescribed for retail outlets, **environmental law does not permit hazardous installations to be located in violation of safety distances merely because consultation is not mandated**. Natural justice principles apply where public safety and environmental rights are affected, irrespective of express procedural requirements.

It is denied that there has been no administrative inaction or that the question of revocation of NOC does not arise. The **District Magistrate's NOC itself is conditional**, providing that in the event of violation of CPCB guidelines, the NOC shall be treated as automatically cancelled. Once objective violations are shown, **revocation is not discretionary but automatic**.

Further, the existence of approvals does not extinguish a **continuing cause of action**, as the violations complained of—proximity to residential habitation, safety risks in hilly terrain, disturbance of natural contours, and

non-compliance with siting norms—are **continuing and subsisting**. Hence, the Respondent's objection to jurisdiction under Sections 14 and 15 of the NGT Act is misconceived.

It is denied that physical inspections by District Supply or Revenue officials conclusively establish compliance. **No authority has produced a certified demarcation or measurement report** demonstrating compliance with the mandatory **minimum 30-metre distance**, nor has any authority certified that the CPCB siting criteria are satisfied in substance. A site cannot be rendered compliant merely because it has been inspected; **objective statutory norms cannot be overridden by subjective satisfaction**.

It is denied that there is no non-compliance with PESO or CPCB guidelines. The Respondent has incorrectly stated that enhanced safety measures are applicable only when distance is between 30–50 metres. In the present case, **residential houses exist within the restricted zone**, and therefore the siting itself is impermissible. The absence of additional safety measures only further demonstrates non-compliance.

The Respondent has failed to place on record any **UKPCB Consent to Establish or siting clearance**, despite repeatedly asserting compliance. The mere assertion that safeguards are "part of the approved design" does not substitute statutory approval or compliance.

The invocation of "public benefit" and employment generation is misplaced. Under the **Public Trust Doctrine**, the State and its instrumentalities are trustees of natural resources and public safety. **No project, however beneficial, can be permitted to compromise environmental safety, habitation safety, or statutory safeguards**. Public convenience cannot override binding CPCB norms or environmental principles.

The letter allegedly written by local representatives requesting a retail outlet does not and cannot authorise the State to **violate environmental laws or safety standards**, nor does it estop affected residents from approaching this Hon'ble Tribunal.

It is denied that the MoRTH notification and proposed acquisition are irrelevant. The inclusion of Village Uprara at Serial No. 18 in the MoRTH notification, the location of the site on a **hilly national highway stretch and near a bend**, and the objections/communications from highway authorities raise serious **safety and planning concerns**. The Respondent's assertion that NHAI has "considered everything" is unsupported by any detailed speaking order or alignment-based clearance placed on record.

Even if the precise parcel is not under acquisition, **the proximity to a notified widening corridor in hilly terrain heightens safety risks** and demands stricter—not diluted—application of siting norms.

It is denied that the principles laid down in *Oleum Gas Leak* and related jurisprudence are inapplicable. While a retail outlet may differ in scale, the underlying principle—**strict liability and heightened duty of care in hazardous activities**—squarely applies. Petroleum storage and dispensing is a hazardous activity, and **risk cannot be presumed away by self-certification of "world-class safety standards."**

The Respondent's assertion that "no prior risk assessment was required" itself demonstrates the deficiency in the decision-making process. In hilly terrain, near habitation and a national highway, **failure to undertake a scientific risk assessment violates the precautionary principle** and undermines sustainable development.

33. **That the contents of paragraph 5.A are denied in their entirety as false, misconceived and misleading.** The Applicant is legally entitled to the reliefs prayed for, including quashing of the impugned No Objection Certificate and consequential permissions, as the same have been issued in **violation of mandatory CPCB siting norms, conditional requirements of the NOC itself, and binding principles of environmental and public safety law**.

It is denied that the impugned permissions were granted after due scrutiny or in accordance with law. As demonstrated from the official record, **material facts were**

omitted from the site layout, mandatory departments failed to verify or sign the map, **UKPCB has not granted statutory clearance**, and residential habitations exist well within the restricted distance. These defects go to the **root of jurisdiction and validity** of the NOC and cannot be cured by subsequent assertions of compliance.

The Respondent's allegation that the Applicant relies on "incorrect distance measurements" or "incorrect classification of land" is denied. The Applicant's case is founded on **official village records, Forest Range Officer reports, District Magistrate's own NOC, photographs, inspection notes, and statutory guidelines**, not conjecture. The Respondent has failed to place on record any certified demarcation or independent measurement contradicting the Applicant's material.

In view of the above, clear and substantial grounds exist for quashing the impugned NOC and related permissions, and the Respondent's blanket denial of relief is **untenable and deserves rejection**

In view of the facts, violations, and material irregularities demonstrated hereinabove, it is most respectfully prayed to this Hon'ble Tribunal that the material placed on record clearly discloses **substantive and continuing violations of mandatory CPCB siting norms, conditional requirements of the impugned NOC, and environmental and public safety principles**, which squarely attract the jurisdiction of this Hon'ble Tribunal under Sections 14, 15 and 20 of the NGT Act.

The Respondent's attempt to seek dismissal of the Original Application by merely reiterating assertions of compliance, without addressing the specific statutory breaches, material omissions, and contradictions evident from the official record, is legally unsustainable. The issues raised in the present Original Application involve **serious questions of environmental compliance, public safety, and precautionary governance**, which cannot be brushed aside at the threshold.

Accordingly, the prayer for dismissal of the Original Application with costs is **liable to be rejected**, and the present proceedings deserve to be **allowed in the interest of justice, environmental protection and public safety**.

APPLICANT

Through

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Place: New Delhi
Date: 24.12.2025

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BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL, PRINCIPAL BENCH AT NEW DELHI

Original Application No. 416 of 2025

IN THE MATTER OF:

Gopal Chandra Vanwassi ... Applicant

Versus

Indian Oil Corporation Limited (IOCL)& Ors.

... Respondents

AFFIDAVIT

I, Gopal Chandra Vanwassi, Aged about 39 years, S/o Sri Madhan Ram, R/o Ritha near Bhramari Kot Mandir (Dangoli) Maj Kot Dist. Bageshwar, Uttarakhand – 263635, do hereby solemnly affirm and states as under;

1. That deponent is applicant in the above stated matted and as such is well conversant with the facts and circumstances of the present case and is competent to swear this present affidavit.

2. That the deponent has gone through the contents of the rejoinder. The same has been drafted as per my instructions. The contents of the same are true and correct to the best of my knowledge and nothing material has been concealed there from.

DEPONENT

VERIFICATION

I, the deponent above named do hereby verify that the contents of this affidavit are true and correct to the best of my knowledge derived from the records and nothing relevant has been concealed therefrom. Verified at Haldwani on this 24 day of December, 2025.

DEPONENT

NOTARY
J.S. BORA
Notary, Haldwani
Distt. Nainital, India
R.No. 36(10) 2022
24/12/2025
GOVT. OF UTTARAKHAND (INDIA)

Certified That Sri/smt. Gopal Chandra Vanwaasi
The Deponent Identified By. Aayush Gaur Advocate
Sworned & Verified The Contents Of The
Affidavit At ..... Haldwani
On Date. 24/12/2025 02:50PM

JITENDRA SINGH BORA
Advocate
Notary, Haldwani
Distt-Nainital (UK) India
24/12/2025

AAYUSH GAUR (Adv.)
IDENTIFIED BY